

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
)	
v.)	Case No. 4:13CR00143 SNLJ NAB
)	
)	
MICHAEL SMITH,)	
)	
Defendant.)	

MOTION OF DEFENDANT FOR SEVERANCE

COMES NOW Defendant, by counsel, and moves the Court pursuant to Rule 14 for an order granting a separate trial from his co-defendants. The grounds for this motion are:

1. Michael Smith is entitled to a severance from his co-defendants because the evidence against Mr. Smith is de minimis when compared to the evidence against other members of the conspiracy. Like Defendant Carroll, Mr. Smith is not named in the conspiracy count. Mr. Smith is only charged in two counts, Numbers 16 and 20. The evidence in this case is voluminous, including 21 individuals, eighty four separate counts and over 100 vehicles.
2. Defendant Smith joins Defendant Carroll in citing the Court to United States v. Baker, 98 F.3d 330 (8th Cir. 1996). In Baker, the Eighth Circuit reversed the Defendant's conviction where there was evidence was admitted against defendant Baker that was otherwise inadmissible had Baker been tried separately. Baker at 335. Like Defendant Michael Smith, defendant Baker was not alleged to be a member of a broader conspiracy. Should this Court should fail to sever Defendant Smith's case, the jury will be subject to irrelevant, voluminous and prejudicial evidence that is only applicable to his co-defendants.
3. When the evidence against one co-defendant is de minimis compared to evidence

against other defendants, a severance is warranted. See *United States v. Mardian*, 546 F.2d 973, 980-81 (D.C. Cir. 1976); *United States v. Sampol*, 636 F.2d 621, 645-47 (D.C. Cir. 1980).

WHEREFORE, Defendant moves the Court for an order severing him from the codefendants and granting him a separate trial and for such other and further relief that the Court deems meet in the premises.

Respectfully Submitted:

Moran & Goldstein, L.C.

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Signature above is also certification that a true and correct copy of the above and foregoing document has been filed this 30th day of August, 2013, with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the Office of the United States Attorney, U.S. Court & Custom House, 111 South 10th Street, St. Louis, MO 63102.